

1 EDMUND G. BROWN JR.
Attorney General of the State of California
2 CHRISTOPHER E. KRUEGER
Senior Assistant Attorney General
3 DOUGLAS J. WOODS
Supervising Deputy Attorney General
4 SUSAN K. LEACH, State Bar No. 231575
Deputy Attorney General
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 897-2105
Fax: (213) 897-1071
7 Email: Susan.Leach@doj.ca.gov

8 Attorneys for Ron Diedrich, in his official capacity as
Director and Chief Administrative Law Judge of the
9 State of California Office of Administrative Hearings

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
13

14 **C.S., by and through his Conservator,**
15 **MARY STRUBLE, on behalf of himself and**
all others similarly situated,

16 Plaintiff,

17 v.

18 **CALIFORNIA DEPARTMENT OF**
19 **EDUCATION, a State Agency,**

20 Defendant.
21

Case No.: 08 CV0226 W AJB

**EX PARTE APPLICATION TO
SHORTEN TIME TO HEAR
MOTION FOR INTERVENTION
[No Oral Argument Pursuant to Local
Rule]**

Judge: The Honorable Thomas J. Whelan

22 Plaintiff filed the complaint in this matter on February 5, 2008 and filed a motion for a
23 temporary restraining order on February 19, 2008, but did not serve the complaint and temporary
24 restraining order motion on defendant California Department of Education ("CDE") until
25 February 25, 2008. *See* Declaration of Susan K. Leach ("Leach Dec.") at ¶ 2. In this Court's
26 February 20, 2008 Order setting the briefing schedule for the temporary restraining order motion,
27 the Court noted that "it appears that Plaintiffs have already served Defendants a copy of the
28 Complaint, TRO, and exhibits thereto."

1 On February 28, 2008, counsel for Ron Diedrich, in his official capacity as Director and
2 Chief Administrative Law Judge of the State of California Office of Administrative Hearings
3 ("OAH") spoke to counsel for CDE and asked if CDE would oppose intervention by OAH.
4 Counsel for CDE said that CDE would not oppose intervention and would sign a stipulation
5 agreeing to allow OAH to intervene in the matter. Leach Dec. ¶ 4.

6 Also on February 28, 2008, counsel for OAH spoke to plaintiff's counsel, Ellen Dowd, and
7 requested that plaintiff agree to allow OAH to intervene. Plaintiff's counsel indicated that she
8 was in a client meeting and would call back the afternoon of February 28, 2008, but she did not.
9 On February 29, 2008, OAH's counsel called Ms. Dowd again and left a voicemail message that
10 a response to the request regarding intervention was needed because of the pending temporary
11 restraining order. Ms. Dowd did not respond. Leach Dec. ¶ 6. Whether plaintiff would oppose
12 intervention is presently uncertain.

13 In the meantime, counsel for CDE, Gabrielle Vivas, on or about February 28 or 29, 2008,
14 requested an extension of time for the due date for the opposition to the temporary restraining
15 order. This request was denied by plaintiff's counsel unless certain conditions were met by CDE.
16 CDE did not agree to those conditions. Leach Dec. ¶ 8.

17 Counsel for OAH understands that CDE sought an extension of time in which to oppose the
18 temporary restraining order based on the delayed date on which CDE was served with the
19 complaint and temporary restraining order motion. Leach Dec. ¶ 8.

20 Based on all these facts, OAH requests shortened time in which to brief and hear the motion
21 for intervention. The requested shortened time would allow enough time for the Court to decide
22 the intervention motion prior to the due date of April 9, 2008 for an opposition brief proposed by
23 CDE in its Ex Parte Application for an Extension of Time so that OAH may also oppose the
24 temporary restraining order motion if granted leave to intervene.

25 //

26 //

27 //

28 //

1 Counsel proposes that any opposition to intervention be due March 14, 2008 and any reply
2 will be due March 21, 2008.

3
4 Dated: March 7, 2008

5 Respectfully submitted,

6 EDMUND G. BROWN JR.
Attorney General of the State of California

7 CHRISTOPHER E. KRUEGER
Senior Assistant Attorney General

8 DOUGLAS J. WOODS
9 Supervising Deputy Attorney General

10
11
12 \s\ Susan K. Leach
SUSAN K. LEACH
Deputy Attorney General
13 Attorneys for Ron Diedrich, in his official capacity as Director
14 and Chief Administrative Law Judge of the State of California
Office of Administrative Hearings
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DECLARATION OF SERVICE BY FACSIMILE AND OVERNIGHT MAIL

Case Name: **C.S., by and through his Conservator, Mary Struble v. California
Department of Education**

Case No.: **08 CV0226 W AJB**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business. My facsimile machine telephone number is (213) 897-1071.

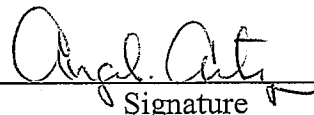
On March 7, 2008 at 1:38 PM., I served the attached **EX PARTE APPLICATION TO SHORTEN TIME TO HEAR MOTION FOR INTERVENTION** by transmitting a true copy by facsimile machine, pursuant to California Rules of Court, rule 2.306. The facsimile machine I used complied with Rule 2.306, and no error was reported by the machine. Pursuant to rule 2.306(g)(4), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration. In addition, I enclosed in a sealed envelope with the **California Overnight Courier Service**, addressed as followed:

Ellen Dowd
658 Del Mar Heights Road #228
Del Mar, California 92014
(858) 755-6348

Gabriel C. Vivas, Deputy General Counsel
Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814
(916) 319-0155

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 7, 2008, at Los Angeles, California.

Angela Artiga
Declarant


Signature

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EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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TO:

NAME: Gabriel C. Vivas, Deputy General Counsel

OFFICE: Department of Education

LOCATION: Sacramento

FAX NO.: (916) 319-0155

PHONE NO.: (916) 319-0860

FROM:

NAME: Susan K. Leach, Deputy Attorney General

OFFICE: Government Law Section

LOCATION: Los Angeles

FAX NO.: (213) 897-1071

PHONE NO.: (213) 897-2105

MESSAGE/INSTRUCTIONS

Re: C.S., by and through his Conservator, Mary Struble v. California Department of Education
United State District Court - Southern District of California, Case No. 08CV0226 W AJB

Ex Parte Application to Shorten Time to Hear Motion for Intervention

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EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



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TO:

NAME: Ellen Dowd, Esq.

OFFICE: _____

LOCATION: Del Mar

FAX NO.: (858) 755-6348

PHONE NO.: (858) 342-8360

FROM:

NAME: Susan K. Leach, Deputy Attorney General

OFFICE: Government Law Section

LOCATION: Los Angeles

FAX NO.: (213) 897-1071

PHONE NO.: (213) 897-2105

MESSAGE/INSTRUCTIONS

Re: C.S. by and through his Conservator, Mary Struble v. California Department of Education
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